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(11) A

Letter from a Gentleman

in Answer to Mr. Mayor Printed Paper about Election.



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Sir

No obedience to your Command; I have perused the Paper, put out in Print by the Mayor and Aldermen, as is pretended of your City of *Normich*, in relation to the City Election. I think it must needs be an abuse to them for as Publick Magistrates 'tis not decent to suspect they should do any thing to mislead their Fellow Citizens; which that Paper does; for first, the Act of Parliament made the first of *Henry* the fifth, Chapter the first, is not therein truly recited. The Words of the Act are these, that the Statutes of the Election of the Knights of the Shires to come to the Parliament, be holden and kept in all points Joyntly to the same: That the Knights of the Shires, which from time forth shall be Chosen in every Shire, be not Chosen unless they be Resident within the Shire where they shall be Chosen, the Day of the Date of the Writ of Summons of the Parliament. And the Knights and Squires and others, who shall be Chosers of those Knights of the Shires be also Resident within the same Shires, in manner and form as is aforesaid; and moreover it is ordained and Established, that the Citizens and Burgeses of the Citys and Burrougus, be Chosen Men Citizens and Burgeses Resident, dwelling and Free in the same Citys and Burroughs and no other in any wise; hereby it appears, that Paper have not only left out that part of the Law, which relates to Counties, which is the Case of the County and City of *Normich*; but even in the Clause which relates to Citys have been left out; the word Resident and dwelling for an Apperant Reason. The Paper say, that Statute is in force; It is true, it is, and therefore none but Residents, that is, such as dwell in the County or City ought to be Chosen, such as out of tender regard and respect to the Electors, inform them of the Laws of Elections, ought to inform them truly of that Law, and not to leave out a Material Part to serve any purpose. 'Tis surprizing to see by the Paper, that Clause of the Act should be ap-ly'd to this City, which do not close barely as a City, but likewise as a County, for the Writs of Summons have always since it was a County been directed to the Sheriffs and the Freeholders, as a County have a Right of Voting and no Right in respect of their Freehold in *Normich* to Vote else where. If you have a mind to see a further Exposition of this Statute of the first of *Henry* fifth, by an other Act of Parliament, look into the Statute of the 23d of *Henry* 6th, Chapter 1th, which Statute is too long to be resited, but it plainly appears hereby, that the first Act of *Henry* 5th, extend only to such Cities, where the Citizens have the only Right of Voting.

This being the Constitution of your City, that Freeholders have a right of Voting as in a County, it naturally follows that Freeholders as in a County likewise are capable to be Elected; and then what becomes of the By-Law made in the Year 1640. that no Freeman shall Vote for any Person that is not Free, unless it can be maintained (which I think no Person will pretend to) that a By-Law can alter the Constitution of the Place.

1640

Suppose all the Free men should Vote for one Man, and all the Free-holders for another, and the Person Chosen by the Free-holders shall have the Majority, can the Sheriff reject this Election, and return the other Chosen by the Free-men, if they should this would be for the Free-holders to loose their Votes intirely, and if they should return the Person Chosen by the Free-holders, then the Freemen have no Representatives, but are hindred by this By Law. These and many other inconveniencies will ensue which are enought to make a By-Law voide, but besides that the reason of the Law makes it voide, upon no other account, by appointing Imprisonment to be the Penalty, this is so Adjudged in *Cookes* 5th Report 65, where this reason is given, that 'tis against the Great Charter of *England*, that any Person should be Imprisoned, but by the Law of the Land, that is Common Law, Statute Law and custom of *England* 2 Inst 46.

This By-Law being voide in its foundation, and void also in the Penalty, no obligation can arise by the Free-mens Oath, for that oblige only to Lawful Ordinances, and no damage can happen by Voting, for all imprisonment upon such account is against Law, and in the case before Cited in my Lord *Cooke*, the party that was Imprisoned recovered damage against the Mayor that committed him, for the wrong Imprisonment, instance in this City, Mr. *Crowe* who when Mayor was Fined for the same, 100*l*.

I have here given you as short an account as I can of this Matter, which I hope will prove to the full satisfaction of all the Electors, who will consider it. I wish you good success in your Election, but take care that no indecencies of the other side provoke you to any Violence, or put you out of Temper; what they offer being only to frighten you out of your Rights, there having been several Elected for this City not Free, and was always Received, and set in the House of Parliament, as *Catline*, *Herbert* and several others.

I am your Humble Servant, G. H.

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THIS is to give notice, there is a Contract from part of the Court and several other Gentlemen -to indemnifie the Free-men from the pretended penalty of 5*l*. or any other inconveniencies that can arise in Voting for the Candidates *Waller Bacon*, *Esq*; or Captain *Chambers* every such Free-man may see the said Contract under Hand and Seal, at Mr. *William Lombes*, Merchant in *St Andrews*.